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MONTANA LEGISLATIVE HISTORY

Chapter 307 Session L 1977
Bill House ____ Senate 316

History and final status sheet x
Introduced bill x
Fiscal note ____
Third reading bill x
Final version of bill x

House Committee on Judiciary

Hearing date(s)* 3/8, 3/16

Executive action (vote) date(s)* 3/16

Comm. Report 3/16

Floor 2nd reading & vote 3/19

Floor 3rd reading & vote 3/21

Senate Committee on Agriculture

Hearing date(s)* 2/4

Executive action (vote) date(s)* 2/4

Comm. Report 2/5

Floor 2nd reading & vote 2/8

Floor 3rd reading & vote 2/10

Conference or Free Conference Comm. ____ Yes x No

Hearing date(s)* ____

Executive action (vote) date(s)* ____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? ____ Yes x No

Committee ____ Report ____

NOTES:

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Compiled by: SJL

Date: June 21, 2016

NO.	AUTHOR	SUBJECT	REFERRED TO
315	DOVER, GALT	THE MONTANA NOXIOUS PLANT MANAGEMENT ACT.	SENATE KILLED ON 2ND READING 2/22/77
316	MCOMBER, ETCHART, BOYLAN	PROVIDING FOR THE USE OF WATER THAT IS NOW UN-APPROPRIATED.	GOVERNOR SIGNED 4/5/77 (CH. 307)
317	JERGESON, PASBENDER (BY REQUEST)	PROHIBITING MINING FOR COAL AND URANIUM ON ALLUVIAL VALLEY FLOORS.	SENATE KILLED IN NATURAL RESOURCES 2/22/77
318	TOWE, DEVINE, ET AL	ABOLISHING THE EXISTING PAROLE SYSTEM FOR PRISONERS WHOSE PROSECUTION COMMENCED AFTER 7/1/77.	SENATE KILLED ON 2ND READING 2/21/77
319	TOWE	ALLOWING A CREDIT AGAINST THE COAL SEVERANCE TAX FOR ANY SIMILAR TAX LEVIED BY AN INDIAN TRIBE.	SENATE KILLED IN TAXATION 2/14/77
320	THOMAS	RESTRICTING NOISE LEVELS FOR MOTORBOATS AND AUTHORIZING BOAT RACES.	SENATE KILLED IN FISH & GAME 2/15/77
321	GRAHAM	CHANGING THE AGE LIMIT FOR SCHOOL BUS DRIVERS FROM 21 TO 18 YEARS OF AGE.	GOVERNOR SIGNED 3/29/77 (CH. 151)
322	GRAHAM	CLARIFYING STOPPING AND LIGHTING REQUIREMENTS FOR SCHOOL BUSES.	GOVERNOR SIGNED 4/4/77 (CH. 244)
323	MEHRENS (BY REQUEST)	REGULATING ELECTRONIC FUNDS TRANSFER SYSTEMS.	SENATE DIED IN BUSINESS & INDUSTRY 4/19/77
324	DONKLE, THIESSEN, ET AL	REVISING THE MONTANA MAJOR FACILITY SITING ACT.	GOVERNOR VETOED 5/13/77
325	ABER, HIMSL, ET AL	REDUCING THE REGISTRATION FEES FOR MOTOR VEHICLES WHEN LICENSE PLATES ARE TRANSFERRED FROM ONE VEHICLE TO ANOTHER AT REGISTRATION.	SENATE DIED IN HIGHWAYS 4/19/77

LC 1551/01

INTRODUCED BY Senate BILL NO. 316
McOmber Etchart Boylan

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE USE OF WATER THAT IS NOW UNAPPROPRIATED BUT MAY NOT BE AVAILABLE AT ALL TIMES AND FOR ALL USES; AMENDING SECTION 89-885, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-885, R.C.M. 1947, is amended to read as follows:

"89-885. Criteria for issuance of permit. The department shall issue a permit if:

(1) there are unappropriated waters in the source of supply:

(a) at times when the water can be put to the use proposed by the applicant;

(b) in the amount the applicant seeks to appropriate; and

(c) throughout the period during which the applicant seeks to appropriate, the amount requested is available;

(2) the rights of a prior appropriator will not be adversely affected;

(3) the proposed means of diversion or construction are adequate;

(4) the proposed use of water is a beneficial use;

(5) the proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved;

(6) an applicant for an appropriation of fifteen (15) cubic feet per second or more proves by clear and convincing evidence that the rights of a prior appropriator will not be adversely affected."

-End-

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

February 4, 1977

The twelvth meeting of the Agriculture, Livestock and Irrigation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Graham at 9:30 a.m.

ROLL CALL: All members were present.

The following witnesses were present to testify:

Senator Ed Smith	Senator & sponsor
Everett Snortland	Montana Farm Bureau
Jack Hayne	self
Mack Quinn	self - farmer
Jim Stephens	Montana Farmers Union
Gene Croghan	Montana Grain Growers
Gordon McOmber	Senator
Ted Doney	Dept. of Natural Resources
George Lackman	Dept. of Agriculture
Gary Gingery	Dept. of Agriculture
Greg McCurdy	Mont. Assoc. of Counties
Charles Rust	Mont. Agric. Expt. Station
O.M. Uelland	DNRC
George McCafferty	Cascade County Weed Board
Doug Johnson	Cascade Co. Pesticide Program
Jim Freeman	Mont. Weed Assoc.
Dave Schroeder	self
John Weigand	Fish and Game
Noel Rosetta	Audobon Soc., Sierra Club

CONSIDERATION OF SENATE BILL 197: Senator Ed Smith, district 1, sponsor of this said he had bascially supported the original wheat marketing and research bill. This bill would change it so the wheat commission members would be elected instead of being appointed by the Governor. He felt the commissioners should be elected by the producers and the administrator hired. He had a suggested amendment on page 11, line 2, strike "appointed" insert "elected". He said the election would not change the makeup of the board. It would be a detriment to the grain growers in the state to eliminate this program. He said the Department of Investment had ruled that money from this program go into the general fund. He felt it should be kept separate.

Senator Allen Kolstad, district 5, appeared as a co-sponsor to the bill. He said a suggestion came up at the state Grain Growers Association convention that something should be done to change the method in which the commission members were appointed. He said it would be a much broader grass-roots approach if the members were elected. He stated he had received much

correspondence on this, but no objections to this bill from grain growers.

Everett Snortland, Montana Farm Bureau, gave testimony in support of the bill. Attached is a copy, see exhibit #1. He said he would like to endorse the remarks made by Senators Smith and Kolstad.

Jack Hayne, a farmer, spoke as a proponent to the bill. His written testimony is attached. See exhibit #2

Mack Quinn, a wheat farmer near Big Sandy testified in support of Senate Bill 197. His testimony is attached. See exhibit #3.

Jim Bjelland, a farmer, rose in support of Senate Bill 197.

There being no further proponents, the opponents were then called on.

Mr. Gene Croghan, vice president of the Montana Grain Growers Association presented his opposition to the bill. He submitted his testimony to the committee. See exhibit #4.

Jim Stephens, Montana Farmers Union, also rose in opposition to the bill. His testiony is attached. Exhibit #5.

Senator Smith in closing stated that he had introduced this bill to make the Wheat Commission work better not to cause problems. He stated he had also received many calls and letters and had only one person objecting to the bill. He felt politics was creeping in and doesn't want this.

Discussion followed by members of the committee. Senator Jergeson mentioned several other programs that the boards were appointed on and asked if Senator Smith felt they should also be elected. Senator Jergeson also felt the election process was not set up too well, as a person could win without receiving a majority of the votes. Senator Graham asked what would happen if there was a tie vote in the election. Senator Smith replied that in that case a run-off would probably be held and maybe should be incorporated into the bill.

CONSIDERATION OF SENATE BILL 316: Senator Gordon McOmber, sponsor of the bill, said this would amend the Montana water laws pertaining to the granting of permits. Even though a stream has been appropriated if unappropriated water runs down it during run-off the Dept. of Natural Resources are bound by law to grant a permit for the excess water. He felt this bill would help the DNR in letting permits and shift the burden of proof from the water right user to the person requesting the excess water.

Ted Doney, chief legal council for the Dept. of Natural Resources, said they had studied this bill very carefully and thought that it was a good bill. He felt it would make the letting of permits a much tighter process which he felt was needed.

DISPOSITION OF SENATE BILL 316: Senator Kolstad moved that Senate Bill 316 DO PASS. Seconded by Senator Aber. Motion Carried.

CONSIDERATION OF SENATE BILL 315: Senator Dover, district 24, had introduced this bill at the request of the Department of Agriculture. He stated that a million acres are infested in the state by noxious weeds. In spite of 30 years of control work that amount is increasing. He felt the present weed law has been inadequate to limit this infestation. He said this bill would shift the responsibility to the landowners. This bill would also give priority to certain weeds, considered to be noxious.

George Lackman, Department of Agriculture, spoke next in support of the bill. See testimony attached #6.

Gary Gingery,also from the Dept. of Agriculture, went through the sections of the bill, explaining the changes that had been made. See exhibit #7.

Greg McCurdy, Montana Association of Counties, felt this bill was similar to House Bill 122. They would urge that the boards be permissive and not mandatory.

Charles Rust, M.S.U. Experiment Station, offered a proposed amendment to section 12. See exhibit #8. This would take the experiment station out of the enforcement end of the act.

O.M. Uelland, MACD, felt the counties should keep local control rather than a state agency. He felt the planning process in the bill would be a help.

George McCafferty, Cascade County, supported the bill. He felt the number of noxious weeds should be left open. This makes it more flexible and sometime more weeds may have to be added or taken off.

Ted Johnson, on the Pesticide Program from Cascade County, said the present law doesn't encourage the landowner to keep the weeds under control, because it is cheaper if the county does it. He felt the wording in the proposed bill would give them the flexibility they need.

Jim Freeman, Mont. Weed Council, said he is basically in support of the bill. He felt it would give more flexibility to control the program. He said they have some reservations to the bill, but will present the amendments to the committee at a later date.

ROLL CALL

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

45th LEGISLATIVE SESSION - - 1976 Date 2-4

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GALT - V. Chairman	✓		
SENATOR ABER	✓		
SENATOR BERGREN	✓		
SENATOR BOYLAN	✓		
SENATOR DOVER	✓		
SENATOR HAGER	✓		
SENATOR JERGESON	✓		
SENATOR KOLSTAD	✓		
SENATOR MANLEY	✓		
SENATOR GRAHAM - CHAIRMAN	✓		

SENATE Agriculture COMMITTEE

BILL 197, 315, 316 VISITORS' REGISTER DATE 2-4

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
JOHN P. WEIGAND	MONT. DEPT FISH & GAME	315		X
Vael Rosetta	Audobon Soc, Sierra Club Mont Wildlife Fed, Etc, Mont Ass Nurseries, Inc			X
[illegible]	CASCADE COUNTY TRIANGLE COUNTIES MONT WEED ASSN	315	X	
Ray Fenton	MGGA	197		X
[illegible]	M.F.U.	197		X
[illegible]	Mont Grain Growers	197		X
Sharon M. Van Tuyl	Tenneco	316	following	
[illegible]	Cascade County weed board	315	X	
[illegible]	Cascade Co. Pesticide Prog.	315	X	
C. M. Clelland	DNRC - CDD (Self)	315	X	
Mack Quinn	S.I.F. - farmer	197	X	
Ted [illegible]	D.N.R.&C.	316	X	
[illegible]	"	316	X	
[illegible]	Dept of Agric	315	X	
[illegible]	Dept of Agric	315	X	
[illegible]	Dept. of Agric	315	X	
[illegible]	mt. Coop Ext Service and mt agric Expt. Station	315	X and support if modified	
[illegible]	Montana R.A.D. Executive	315	X	
[illegible]	Self	197	X	
[illegible]	Self - farmer	197	X	
[illegible]	Montana Farm Bureau	197	X	
[illegible]	Self - farmer	197	X	
[illegible]	Self - Farmer	197	X	
[illegible]	" "	197	X	

SENATE Agr. COMMITTEE

BILL _____ VISITORS' REGISTER DATE 2-4

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Corin Farris	DNRC	316	✓	
~~Fr. T. Dorey~~	~~DNRC~~	316	~~✓~~	

STANDING COMMITTEE REPORT

February 4 19 77

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration SENATE Bill No. 316

Respectfully report as follows: That SENATE Bill No. 316

DO PASS

GRAHAM Chairman.

STATE PUB. CO.
Helena, Mont.

1. Amend title, line 12.
Following: "92-1006,"
Insert: "92-1009,"

2. Amend page 2, section 1, line 2.
Following: "within"
Strike: "10"
Insert: "30"

3. Amend page 2, section 1, line 12.
Following: "insured."
Insert: "Nothing in this subsection prevents an insurer from canceling a policy of workers' compensation insurance until a replacement policy is issued to the insured."

4. Amend page 2, section 1, line 15.
Following: "with the"
Strike: "10"
Insert: "30"

5. Amend page 2, section 2, line 18.
Following: "92-1006,"
Insert: "92-1009,"

And, as so amended, do pass. Unanimously passed.

That Senate Bill No. 23 do pass. Unanimously passed.

That Senate Bill No. 93 be amended as follows:

1. Amend page 1, section 1, lines 12 and 13.
Following: "act"
Strike: "; and providing an effective date"

2. Amend page 4, lines 7 through 8.
Following: line 6
Strike: lines 7 through 8 in their entirety

And, as so amended, do pass. Unanimously passed.

That Senate Bill No. 97 follow Senate Bill No. 316. Unanimously passed.

That Senate Bill No. 199 do pass. Unanimously passed.

That Senate Bill No. 232 be amended as follows:

1. Amend page 4, section 1, line 15.
Following: "shall not"
Strike: "be"

And, as so amended, do pass. Opposed by Watt.

That Senate Bill No. 254 do pass. Unanimously passed.

That Senate Bill No. 265 do pass. Unanimously passed.

That Senate Bill No. 316 do pass. Unanimously passed.

That House Bill No. 64 be concurred in. Opposed by Boylan, Galt, Jergeson, Kolstad, Lee, Lockrem, Roskie, Stephens, Towe, Turnage.

Senator Devine relinquished the Chair.

Senator McCallum assumed the Chair.

That consideration of Senate Bill No. 97 be passed. Opposed by Boylan, Dunkle, Healy, Lee, Manley, Norman, Peterson, Regan, Thomas, Warden.

Total 0

Absent or not voting: None.
Total 0

Senate Bill No. 265 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, Lockrem, Lowe, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Murray, Nelson, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Senate Bill No. 316 was passed by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, Lockrem, Lowe, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Murray, Nelson, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

EDUCATION (Blaylock, Chairman):
SB 322, introduced bill, do pass. Report adopted.

BUSINESS AND INDUSTRY (Hazelbaker, Chairman):
SB 84, introduced bill, be amended as follows:

1. Amend page 4, section 5, lines 1 and 2.
Following: "products"
Strike: "to a consumer"

2. Amend page 4, section 5, line 11.
Strike: "$15.00"
Insert: "$10.00"

3. Amend page 6, section 8, line 6.

Senate BILL NO. 316

INTRODUCED BY McOrler Etchart Boylan

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE USE OF WATER THAT IS NOW UNAPPROPRIATED BUT MAY NOT BE AVAILABLE AT ALL TIMES AND FOR ALL USES; AMENDING SECTION 89-885, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-885, R.C.M. 1947, is amended to read as follows:

"89-885. Criteria for issuance of permit. The department shall issue a permit if:

(1) there are unappropriated waters in the source of supply;

(a) at times when the water can be put to the use proposed by the applicant;

(b) in the amount the applicant seeks to appropriate; and

(c) throughout the period during which the applicant seeks to appropriate, the amount requested is available;

(2) the rights of a prior appropriator will not be adversely affected;

(3) the proposed means of diversion or construction are adequate;

(4) the proposed use of water is a beneficial use;

(5) the proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved;

(6) an applicant for an appropriation of fifteen (15) cubic feet per second or more proves by clear and convincing evidence that the rights of a prior appropriator will not be adversely affected."

-End-

THIRD READING

SB316

WATER SUB COMMITTEE ON JUDICIARY

March 8, 1977 Room 436

The meeting was called to order by Chairman Day at 9:08 a.m., with all members present except, Representatives, Halvorson, Kimble, and Mular.

Senator McOmber, chief sponsor of SB 132, explained that this bill would remove from the state water district law the provision which permits the sale of excess water by an owner of water.

This bill will only apply to irrigation districts. It will have no effect on private water rights. He stated that this had not been a problem in the past but the water was not as serious as it is now. If the owners of the water were to exercise their right according to the present law there could be a real problem.

Ted Doney, Department of Natural Resources, explained that there could be some legal problems, and proposed the following amendments to SB 132: Amend the title, line 6, following: "SALE"; insert: "OR ASSIGNMENT OF EXCESS WATER"; following: "BY"; strike: "A WATER"; insert: "AN"; following: "WATER"; insert: "IN AN IRRIGATION DISTRICT"; strike: "IN EXCESS OF HIS"; also omit section 2, on page 2, and renumber subsequent subsection. With these amendments he went on record as being in support of SB 132.

Senator McOmber agreed to the amendments.

Representative Hand asked what the objection would be from taking the water from one place to be used in another? Senator McOmber replied, the federal requirements do not permit it, and if the present law was exercised the districts would be forced to hire a lawyer and pay the legal expenses, which would not be fair to the districts. When there is not enough water and one person sells to another hard feelings and difficulties could arise if the present law were put to use.

Representative Ellison commented that it is common practice to distribute water by canals. There is enough problem in distributing the water without someone up stream selling to someone down stream. Most likely the canal system could not handle the water that was being sent down stream.

Representative Day commented that it would be a nightmare in the distribution of water if people were to exercise the present law.

The hearing on SB 132 was closed and the hearing on SB 316 was opened.

Senator McOmber, chief sponsor of SB 316, explained that this bill dealt with the issuing of water permits for the use of water that is now unappropriated but may not be available at all times. This bill will change the issuance of a permit too when the water is available. Under the law now there is no way to deny a permit when the water requested is not available.

Ted Doney, Department of Natural Resources, proponent to SB 316, stated that this bill would tighten up the issuance of a permit, if the water were available and also encourage water storage.

Gene Spilde, S.G.P.A., rose in support of SB 316.

Representative Ellison asked if permits could be issued for a certain length of time? Mr. Doney replied; yes, it would tighten up the issuance of a permit.

Chairman Day asked Senator McOmber if he had a preference to whom he wished to carry SB 132 and SB 316, if concurred in. Senator McOmber requested Chairman Day to carry the bills.

EXECUTIVE SESSION:

Representative Lory moved SB 316, be concurred in. It was seconded and passed unanimously.

Representative Ramirez moved the adoption of the proposed amendments to SB 132. It was seconded and passed unanimously.

Representative Lory moved SB 132, be concurred in as amended. It was seconded and passed unanimously.

A motion was made and passed to adjourn.

Adjourned at 9:40 a.m.

William M. Day, Chairman

jm

WATER SUB-COMMITTEE ON JUDICIARY
EXECUTIVE SESSION
March 8, 1977

The water sub-committee on Judiciary held an executive session following the regular meeting on Tuesday, March 8, in room 436 of the Capitol Building, Helena, at 9:20 a.m. with Chairman Day presiding. All members were present except Representatives Halvorson and Mular.

Action was taken on the following two bills.

SENATE BILL #316:
REPRESENTATIVE LORY move "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #132:
REPRESENTATIVE RAMIREZ moved to amend as follows:

1. Amend title, lines 6 and 7.
Following: "SALE"
Insert: "OR ASSIGNMENT OF EXCESS WATER"
Following: "BY"
Strike: "A WATER"
Insert: "AN"
Following: "OF WATER"
Strike: "IN EXCESS OF HIS NEEDS"
Insert: "IN AN IRRIGATION DISTRICT"

2. Amend page 2, section 2, lines 4 through 6.
Following: line 3
Strike: section 2 in its entirety
Renumber: subsequent section

The motion to amend carried with the vote unanimous.
REPRESENTATIVE LORY moved to "be concurred in as amended".
The motion carried with the vote unanimous.

William L. Day
WILLIAM DAY, CHAIRMAN
Water sub-committee

JOHN P. SCULLY, CHAIRMAN
Judiciary

Mary Ellen Connelly
Mary Ellen Connelly, Secretary

JUDICIARY COMMITTEE
EXECUTIVE SESSION

March 16, 1977

The Judiciary Committee held an executive session at 9:10 a.m. following the regular meeting, in room 436 of the Capitol Building, Helena, Montana. Chairman Scully presided. Members absent and not voting were Representatives Colburn, Kennerly and Seifert.

SENATE BILL #101:
REPRESENTATIVE DUSSAULT moved to reconsider action taken at an earlier meeting. After some discussion the question was called and the motion carried with Representatives Keyser and Roth voting "no". It was then decided to hold the bill for action on another day after allowing time for further study.

SENATE BILL #187:
REPRESENTATIVE HAND moved "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #132 (water):
REPRESENTATIVE LORY moved to accept the sub-committee report, "concurred in as amended". The motion carried with the vote unanimous. (copy attached)

SENATE BILL #316 (water):
REPRESENTATIVE LORY moved to accept the sub-committee report, "be concurred in". The motion carried with the vote unanimous.

SENATE JOINT RESOLUTION #20 (water):
REPRESENTATIVE LORY moved to accept the sub-committee report, "be concurred in". The motion carried with the vote unanimous.

SENATE BILL #230:
REPRESENTATIVE ROTH moved "not concurred in". The motion carried with the vote unanimous.

SENATE BILL #254:
REPRESENTATIVE RAMIREZ moved "be concurred in". The motion carried with Representatives Dussault and Hand voting "no".

SENATE BILL #311:
A heated discussion about what was involved and what effect this bill would have was carried on for some time before Representative Ramirez moved "to pass for the day", in order to give the committee time for more study. The motion carried with the vote unanimous.

SENATE BILL #326:
REPRESENTATIVE KEYSER moved "be concurred in". The motion carried with the vote unanimous.

SENATE BILL #393:
REPRESENTATIVE RAMIREZ moved "be concurred in". The motion carried with Representative Hand voting "no".

Chairman Scully appointed the following members to carry the bills that had been acted upon.

Senate bill #187	Representative Teague
Senate Bill #254	Representative Dussault
Senate Bill #326	Representative Hand
Senate Bill #393	Representative Ramirez
Senate Joint Resolution #20	Representative Baeth

The meeting adjourned at 10:10 a.m.

JOHN P. SCULLY, CHAIRMAN

Mary Ellen Connelly

Mary Ellen Connelly, Secretary

Strike: "their"
Insert: "its"

7. Amend page 1, section 1, line 25.
Following: "legislature"
Insert: ", the secretary of state," (49-36)

And be further amended:

8. Amend page 2.
Following: line 18
Insert: "Section 3. Grounds for objections. Objections by the administrative code committee shall be limited to failure of the rule to comply with legislative intent or failure of the agency to comply with the provisions of the Montana Administrative Procedure Act in adopting the rule."
Renumber: subsequent sections

9. Amend page 2, section 3, line 22.
Following: "filed"
Insert: "by the administrative rules committee"

10. Amend page 3, section 3, line 6.
Following: "authority"
Strike: "and"
Insert: ","

11. Amend page 3, section 4, line 7.
Following: "delegations"
Insert: ", and to convey any objections to the administrative code committee" (75-6)

And as amended, be concurred in. (71-11)

That SB 207 be concurred in. (77-3)

That SB 219 be concurred in. (81-0)

That SB 223 be concurred in. (74-4)

That SB 228 be concurred in. (78-0)

That SB 254 be concurred in. (76-0)

That SB 258 be concurred in. (74-3)

That SB 261 be concurred in. (74-3)

That SB 270 be concurred in. (73-1)

That SB 277 be concurred in. (76-2)

That SB 283 be concurred in. (72-1)

That SB 287 be concurred in. (75-1)

That SB 290 be concurred in. (77-0)

Marks replaced Moore in the Chair.

That SB 316 be concurred in. (81-0)

Moore resumed Chair.

That SB 326 be concurred in. (79-1)

That SB 327 be concurred in. (75-1)

Noes: Nathe, Roth.
Total 2

Excused: Palmer, Teague, Tower.
Total 3

Absent or not voting: None.
Total 0

Senate Bill No. 316 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Burnett, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 97

Noes: None.
Total 0

Excused: Palmer, Teague, Tower.
Total 3

Absent or not voting: None.
Total 0

Senate Bill No. 326 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Colburn, Conroy, Cooney, Courtney, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, J. Gunderson, Halvorson, Hand, Hansen, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, O'Connell, O'Keefe, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Scully, Seifert, Severson, Shelden, Sivertsen, South, Staigmiller, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Mr. Speaker.
Total 87

Noes: Brand, Cox, E. Gunderson, Lund, Nathe, Ryan, Smith.
Total 7

Excused: Palmer, Teague, Tower.
Total 3

Absent or not voting: Harper, Stobie, Wyrick.
Total 3

Senate Bill No. 327 was concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Barrett, Bengtson, Bertelsen, Bradley,

SENATE BILL NO. 316

INTRODUCED BY McOMBER, ETCHART, BOYLAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE USE OF WATER THAT IS NOW UNAPPROPRIATED BUT MAY NOT BE AVAILABLE AT ALL TIMES AND FOR ALL USES; AMENDING SECTION 89-885, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-885, R.C.M. 1947, is amended to read as follows:

"89-885. Criteria for issuance of permit. The department shall issue a permit if:

(1) there are unappropriated waters in the source of supply:

(a) at times when the water can be put to the use proposed by the applicant;

(b) in the amount the applicant seeks to appropriate; and

(c) throughout the period during which the applicant seeks to appropriate, the amount requested is available;

(2) the rights of a prior appropriator will not be adversely affected;

(3) the proposed means of diversion or construction are adequate;

(4) the proposed use of water is a beneficial use;

(5) the proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved;

(6) an applicant for an appropriation of fifteen (15) cubic feet per second or more proves by clear and convincing evidence that the rights of a prior appropriator will not be adversely affected."

-End-

REFERENCE BILL